

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PETER L. DUFFY,

Plaintiff

v.

DEPARTMENT OF THE NAVY

Defendant

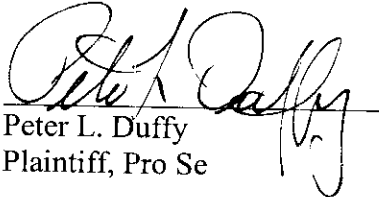
Civil Action No. 04-10547-WGY/LPC

**REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

The Plaintiff concurs with Defendant's assertion that the Freedom Of Information Act's (FOIA) exemptions from disclosure of government information are generally "discretionary" in nature. The Defendant's discretion, their ability to responsibly apply the FOIA statutory requirements, is exactly what is at issue here.

The record of this case shows that a basis for injunctive relief does exist. This was not simply, as the Defendant suggests, a case of applying exemptions and then releasing the documents after reconsideration. This was a case where on three different occasions, over a period of two years and eight months, the Defendant formally reviewed the withheld documents and chose to exercise a legal authority they clearly did not have by deciding each time that FOIA exemptions (b)(5) and (b)(6) applied to **blank** records, records with standard boilerplate language, records that had **nothing to do with personal or medical files**, and records that would be clearly releasable since they would be **discoverable in a civil action**. This is a clear abuse of the discretionary power that Congress entrusted the Defendant with.

Further, the Defendant incorrectly assumes that the Plaintiff seeks pro se attorney's fees. The Plaintiff seeks reimbursement of all legal costs (i.e. \$150 filing fee, postage, copying, and other expenses legally entitled to).



Peter L. Duffy
Plaintiff, Pro Se

210 Boston Road
Sutton, MA 01590
(508) 865-7977

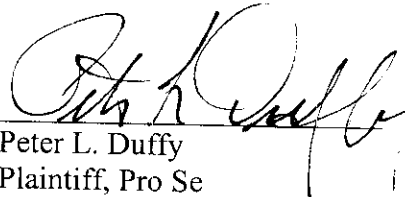
CERTIFICATE OF SERVICE

I, Peter L. Duffy certify that copies of the following document, *REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT*, Civil Action No. 04-10547-WGY, were sent via U.S. Postal Service, on 5th January, 2005 to the following addresses:

US Attorney's Office
Suite 9200 (9th Floor)
United States Courthouse
Boston, MA 02210

Attorney General of the United States
Department of Justice
Washington, DC 20530

Gordon R. England
Secretary of the Navy
1000 Navy Pentagon
Washington, DC 20350



Peter L. Duffy
Plaintiff, Pro Se

210 Boston Road
Sutton, MA 01590
(508) 865-7977